

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO WESTERN DIVISION, AT DAYTON, OHIO		
IRON WORKERS DISTRICT COUNCIL OF SOUTHERN OHIO & VICINITY BENEFIT TRUST, et al., Plaintiffs, vs. OBERLE & ASSOCIATES, INC., et al., Defendants.	*	CASE NO. 3:12-CV-362 JUDGE TIMOTHY S. BLACK MAGISTRATE JUDGE MICHAEL N. NEWMAN AGREED JUDGMENT ENTRY WITH RESPECT TO CLAIMS AGAINST OBERLE & ASSOCIATES, INC.
	*	

It appearing to the Court that, a settlement has been reached whereby Plaintiff Iron Workers District Council of Southern Ohio & Vicinity Benefit Trust, Pension Trust, and Annuity Trust (“Plaintiffs” or the “Trusts”) and Defendant Oberle & Associates, Inc. (“Oberle & Associates”)(collectively the “Parties”) consent to the following entry of judgment:¹

1) It is therefore, ORDERED, ADJUGED, AND DECREED, that Plaintiffs are awarded judgment against Defendant Oberle & Associates and its successors and assigns in the amount of Twenty Thousand Fifty-Eight and 06/100 Dollars (\$20,058.06) (the “Full Amount”). The Full Amount is comprised of the unpaid contributions totaling Sixteen Thousand One and 29/100 Dollars (\$16,001.29); interest totaling One Thousand Three Hundred Twenty-Six and 72/100 Dollars (\$1,326.72), and liquidated damages totaling Two Thousand Seven Hundred Thirty and 05/100 Dollars (\$2,730.05). The Full Amount has been calculated from reports that Oberle & Associates provided to the Trusts from December 2011 to December 2012. The Trust have agreed to accept Seventeen Thousand Three-Hundred Twenty-Eight and 01/100 Dollars (\$17,328.01) (the “Compromised Amount” consisting of unpaid contributions and interest) in

¹This Agreed Judgment Entry has been made against Defendant Oberle & Associates only. Plaintiffs have agreed to voluntarily dismiss their claims against Defendant John Oberle, without prejudice, in accordance with this Entry.

full satisfaction of their claims, so long as Oberle & Associates fulfills its obligations hereunder. The Trusts maintain their right to collect the Full Amount until Oberle & Associates fulfills the terms of this Agreed Judgment Entry. Oberle & Associates must pay liquidated damages in the amount of Two Thousand Seven Hundred Thirty and 05/100 Dollars (\$2,730.05) if it fails to make a scheduled payment and/or if it fails to file current reports and payments are required by the Benefit Trust Agreement, Pension Trust Agreement, and Annuity Trust Agreement, and Oberle & Associates' Participation Agreement with the Trusts. Copies of the Benefit Trust Agreement, Pension Trust Agreement, Annuity Trust Agreement, and Participation Agreement are part of the case record as **Exhibit Numbers 1, 2, 3, and 4 to Case Document #1** (Plaintiffs' Complaint).

2) It is further ORDERDED that \$10,000.00 of the amount set forth in Paragraph 1 above shall be paid to the Trusts via certified bank check written payable to the Iron Workers District Council of Southern Ohio & Vicinity Fringe Funds. Defendant Oberle & Associates shall provide this \$10,000 check within five (5) business day of the date that the Plaintiffs sign this Agreed Judgment Entry as set forth below.

3) It is further ORDERED that Oberle & Associates shall satisfy the remaining payments set forth in Paragraph 1 as follows:

- a. By or before the 15th day of each month, following the month that Defendant remits the \$10,000.00 payment required by Paragraph 2 above, Oberle & Associates shall remit monthly payments of no less than \$1,000 to the Trusts, until the Compromised Amount has been satisfied. In

making such payments, Oberle & Associates shall follow the payment schedule below.²

Date	Payment Due
At the time of signing the Agreed Judgment Entry	\$10,000.00
March 15, 2013	\$1,000.00
April 15, 2013	\$1,000.00
May 15, 2013	\$1,000.00
June 15, 2013	\$1,000.00
July 15, 2013	\$1,000.00
August 15, 2013	\$1,000.00
September 15, 2013	\$1,000.00
October 15, 2013	\$328.01

b. Oberle & Associates acknowledges and agrees that the payments set forth in Paragraph 3 and its subparts are a separate and additional obligation to the regular monthly contribution payments that it must make pursuant to the Trusts' governing plan documents and its Participation Agreement with the Trusts.

4) It is further ORDERED that Plaintiffs shall be entitled to post-judgment interest at the rate of 12% per annum, assessed monthly, based on the total amount outstanding under this judgment, less payments made, from the date of this Agreed Judgment Entry, until such time as all amounts set forth in Paragraph 1 are paid in full. The Trusts will waive post-judgment interest if Oberle & Associates satisfies the payments due hereunder and complies with the all other obligations set forth in this Agreed Judgment Entry.

5) It is further ORDERED that there shall be no prepayment penalty hereunder. Should Oberle & Associates remit scheduled payments in excess of \$1,000.00, the additional amount

²The below payment schedule presumes that Defendant Oberle & Associates satisfies its obligations hereunder and that liquidated damages and interest are waived pursuant to the terms of this Agreed Judgment Entry. The payment schedule represents the payments required for Defendant to satisfy the Compromised Amount.

shall be applied toward Oberle & Associates' last scheduled payment, working forward, until all amounts due hereunder have been satisfied. Oberle & Associates shall not pay less than \$1,000.00 per month under this Agreed Judgment Entry, unless such lesser payment constitutes the remaining balance due and owed hereunder.

6) It is further ORDERED that Plaintiffs will file a Notice of Dismissal, without Prejudice, of their claims against Defendant John Oberle, upon their receipt of the \$10,000.00 payment required by Paragraph 2. The Parties agree that Plaintiffs shall be entitled to reinstate their claims against Mr. Oberle should Oberle & Associates fail to complete its obligations under this Agreed Judgment Entry. With the exception of the tolling of the statute of limitations, John Oberle does not waive or modify any rights or defenses he may have to Plaintiffs' claims against him.

7) It is further ORDERED that Defendant John Oberle agrees to toll any statute of limitations period applicable to Plaintiffs' claims against him for a period of two (2) years from the date of the breach of Oberle & Associates' obligations under this Order.

8) It is finally ORDERED that the Court shall retain jurisdiction over this matter to ensure the Parties' compliance with this Agreed Judgment Entry.

IT IS SO ORDERED.

Date: _____ 2/15/2013 _____

_____*s/ Timothy S. Black*_____
TIMOTHY S. BLACK
UNITED STATES DISTRICT JUDGE

APPROVED:

Iron Workers District Council of Southern Ohio & Vicinity Benefit Trust, Pension Trust, and Annuity Trust (Plaintiffs), by

/s/ Lori L. Raymone

Title: Administrative Mgr.

-and-

/s/ Joseph C. Hoffman

Joseph C. Hoffman, Jr. (0056060)

Joseph D. Mando (0082835)

FAULKNER, HOFFMAN & PHILLIPS, LLC
ATTORNEYS FOR PLAINTIFFS

-and-

Oberle & Associates, Inc. (Defendant), by

/s/ John Oberle

Title: VP

-and-

John Oberle (Defendant),

/s/ John Oberle

-and-

/s/ John G. Witherspoon Jr.

John G. Witherspoon Jr. (0012151)

Freund, Freeze & Arnold

ATTORNEY FOR THE DEFENDANTS